

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK VICINAGE

UNITED STATES OF AMERICA,	:	
	:	Civil Action No.
	:	98-CV-4812 (WHW)
Plaintiff,	:	
v.	:	
	:	
BECKMAN COULTER, INC., <i>et al.</i> ,	:	
	:	
Defendants.	:	
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NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION, <i>et al.</i> ,	:	Civil Action No.
	:	98-CV-4781 (WHW)
Plaintiffs,	:	
v.	:	
	:	
AMERICAN THERMOPLASTICS CORP., <i>et al.</i> ,	:	
	:	
Defendants.	:	
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APPENDIX D
JUDGMENT ON CONSENT AGAINST
COMPACTION SYSTEM CORPORATION OF CONNECTICUT, INC. AND
COMPACTION SYSTEMS CORPORATION (A NEW JERSEY CORPORATION)

It appearing to the Court, based upon the record and information before it and the representations made to it and to counsel for the United States and the State of New Jersey on behalf of Compaction System Corporation of Connecticut, Inc., the successor to Compaction Systems of Bridgeport, Inc., and Compaction Systems Corporation (a New Jersey Corporation) (collectively, the Compaction Defendants), that:

1. The potential liability of the Compaction Defendants in connection with the Combe Fill South Landfill Superfund Site in Chester, New Jersey Site (the Site) under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. § 9607(a); the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23 *et seq.* (Spill Act), the New Jersey Sanitary Landfill Closure and Contingency Fund Act, N.J.S.A. 12:1E-100 *et seq.*, the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*, and other authorities is disputed both as to liability and amount;
2. Apart from insurance funding available to the Compaction Defendants, which funding was settled prior to trial (*Compaction Systems Corporation of Connecticut, Inc. v. California Union Insurance Co., et al.*, Bergen County, Law Division, Docket No. BER-L-9246-02), the Compaction Defendants possess limited financial resources with which to resolve their potential liability in the above-captioned Actions as defined in the Consent Decree (Decree);
3. The Compaction Defendants have executed the Decree lodged with this Court, pursuant to which, in order to resolve their potential liability, they agree to an initial payment of \$11 million under Paragraph 4(b) of the Decree. It is alleged that much of the Compaction Defendants' exposure as potentially responsible parties at the Site under CERCLA and the Spill Act arises from, *inter alia*, documentary evidence linking Compaction Systems Corporation (a New Jersey corporation) as an alleged operator of the Site during 1978-1981, to Combe Fill Corporation (CFC), which allegedly owned and operated the Site during the same time period, and to

Combustion Equipment Associates, Inc. (CEA), then the parent of CFC and now known as Carter Day Industries, Inc. (CDI) (CFC, CEA and CDI, collectively, hereinafter the Carter Day Parties). It is further alleged that between 1978 and 1981, Compaction Systems Corporation of Connecticut, Inc. transported materials containing hazardous substances to the Site. The Compaction Defendants have agreed to accept a larger judgment than their payment amount under Paragraph 4(b) of the Decree to account for their alleged shared liability with the Carter Day Parties and have filed a contribution action against the Carter Day Parties as part of the Actions. Accordingly, the Compaction Defendants further consent to the entry of this JUDGMENT ON CONSENT AGAINST COMPACTION SYSTEMS CORPORATION OF CONNECTICUT, INC. AND COMPACTION SYSTEMS CORPORATION (A NEW JERSEY CORPORATION) under Paragraph 23 of the Decree:

23. Compaction Defendants' Reservations.

a. Ability to Pay Settlement. The Plaintiffs and this Court recognize that, except for the payment of the amounts in Paragraph 4(b) to be paid on behalf of the Compaction Defendants, through insurance recoveries, the resources of the Compaction Defendants are limited.

b. Compaction Contribution Action. The Compaction Defendants have indicated their intention of pursuing a declaratory judgment, cost recovery and/or contribution action under CERCLA, the Spill Act, other applicable authorities and common law against Carter Day Industries, Inc., Combustion Equipment Associates, Inc., Combe Fill Corporation (collectively, the Carter Day Parties) and their insurance carriers (collectively, the Carter Day Carriers), and other persons who have not entered into this Decree or prior consent decrees in the Actions, for reimbursement of the Compaction Defendants' payment amount (\$11 million) under Paragraph 4(b) and

any additional amount as provided in the Judgment on Consent as set forth in Appendix D (the Compaction Contribution Action).

c. Compaction Consent Judgments.

(i) Initial Consent Judgment. In addition to the payment obligation of the Compaction Defendants Group pursuant to Paragraph 4(b), the Compaction Defendants further consent to the Judgment against them contained in Appendix D, requiring said Defendants to also pay to the United States and State Plaintiffs any net proceeds of amounts recovered from the Compaction Contribution Action for claims for Response Costs or NRD not recovered by the United States and State Plaintiffs in this Decree, after payment by the Compaction Defendants in the following order: first, payment of a percentage of amounts recovered into an Escrow Fund in accordance with the Escrow provisions of paragraph 5 of Appendix D; second, payment to counsel for the Compaction Defendants of reasonable attorneys fees and other reasonable costs of litigation; third, reimbursement of the Federal Insurance Company up to the amount it has contributed to the Compaction Defendants' \$11 million payment to the Plaintiffs under Paragraph 4(b); and fourth, reimbursement of the parties in the instant or prior settlements in the Actions for reasonable attorneys fees and costs incurred in discovery to the extent that the Court has not previously required such payments by the Carter Day Parties. The foregoing amounts will be payable by the Compaction Defendants only to the extent that these amounts are recovered by the Compaction Defendants through the Compaction Contribution Action.

(ii) Additional Consent Judgment. In addition to the Consent Judgment above, in the event that any entity that was a member of any Settlement Group as of May 7, 2008 that did not opt-out of the settlement pursuant to the Order of this Court dated June 5, 2008, and failed to execute the Decree (Defaulting Party), the Compaction Defendants agree to a Consent Judgment for the aggregate amount of any shortfall, including principal and Interest, that would have been paid by all Defaulting Parties (Defaulting Party Action). The Compaction Defendants may proceed in contribution or otherwise under this additional Consent Judgment only against such Defaulting Parties for such aggregate amount, with any net proceeds, after attorneys fees and costs, to be paid to the United States and State Plaintiffs. Liaison Counsel have provided to the Court and the Plaintiffs the names of the members of the Settlement Groups who did not opt-out of this settlement by the opt-out date set by the Court. Either the Plaintiffs or the Compaction Defendants may submit a Consent Judgment to this Court in the Actions for such additional amount. The Compaction Defendants may not compromise their

contribution action described in this subparagraph without the approval of the Plaintiffs and this Court.

(iii) Plaintiffs shall cooperate in good faith with the Compaction Defendants in the Compaction Contribution and any Defaulting Party Action.

d. Retention of Jurisdiction. The United States and the State Plaintiffs have an interest in the Compaction Contribution Action and the Defaulting Party Action, under which net proceeds will be paid to the United States and the State Plaintiffs as reimbursement for their unreimbursed Response Costs. In order to (1) administer this decree consistent with the expectations of the parties and to protect them; (2) ensure the efficient litigation of the Compaction Contribution Action and the Defaulting Party Action; and (3) address any discovery directed to the United States during the course of the Compaction Contribution Action and the Defaulting Party Action, pursuant to 28 U.S.C. § 1367(a), this Court shall retain jurisdiction over the parties to this Decree, the Compaction Contribution Action and the Defaulting Party Action, and all related proceedings.

e. Discovery. This Court may consider appropriate limitations to any discovery which may be sought in the Compaction Contribution Action and Defaulting Party Action with due regard to: (1) availability of information in the public record including that contained in the Document Discovery Repository (DDR) (established pursuant to CMO No.2), consistent with the procedures set out in Paragraph 33, as well as other publicly available Site-related documents; and (2) availability of information through stipulation or voluntary agreement with the settling parties or other parties who have not resolved their liability to the Plaintiffs. This Court may enter Orders containing findings of fact and conclusions of law which may be dispositive of certain factual and legal matters and which may otherwise limit discovery in the Compaction Contribution Action and the Defaulting Party Action with respect to all parties in the instant or prior settlements in the Actions other than the Compaction Defendants. Furthermore, this Court recognizes that the defendants and third-party defendants in the Actions have participated in an extensive Court-approved ADR Process designed to facilitate allocation of potential liability. The Court may take judicial notice of the amounts paid in settlement by the Settling Defendants, Settling Municipal Group Parties and Settling Federal Agencies pursuant to Paragraph 4, and may limit discovery against such parties.

f. Confidentiality and Other Relief. Nothing contained herein shall:

(i) alter or amend any provision governing the confidentiality protections contained in all prior Orders of this Court in the Actions, including CMO No. 2; or

(ii) preclude parties in the instant or prior settlements in the Actions against whom discovery is sought from petitioning the Court for costs and attorneys fees in responding to or complying with such discovery requests pursuant to Rule 26 and Rule 45 of the Federal Rules of Civil Procedure.

g. Entry of Judgment upon Entry of Decree. The judgment set forth in Appendix D will be deemed entered at such time as this Court enters the instant Decree, regardless of whether Appendix D is physically signed.

Paragraphs 33-35 of CMO No. 2 (as referenced above and in Paragraph 23 of the Decree) provide:

“33. As described in detail below, all documents and information created and exchanged during the ADR Process, whether before or after entry of this CMO, shall be “Confidential,” and shall not be discoverable in this or any other proceeding.

34. This CMO shall not bar the discovery in this or any other proceeding, of documents not created in the ADR Process, which are not privileged, regardless of whether they were exchanged in the ADR Process, except as otherwise specifically provided in this CMO.

35. Nothing herein shall constitute a basis to exclude from discovery factual information and raw data which are otherwise discoverable.”

4. After the payment of the amount set forth in Section V (PAYMENT OF RESPONSE COSTS AND NATURAL RESOURCE DAMAGES AND PURCHASE OF ANNUITY) of the Decree, including the \$11 million specified in Paragraph 4(b), and any additional amount that may be due pursuant to Section VI. (FAILURE TO COMPLY WITH CONSENT DECREE), the only source of funding available to the Compaction Defendants with which to pay on a judgment against them will be through claims in the Compaction Contribution Action (as defined in Paragraph 23 of the Consent Decree);

5. **Compaction Contribution Action Escrow** – The Compaction Defendants have indicated their intent to pursue the Compaction Contribution Action (as defined in Paragraph 23 of the Consent Decree) against the Carter Day Parties and the Carter Day Carriers and possibly other persons who have not resolved their liability at this Site for reimbursement of the Compaction Defendants’ payment amount (\$11 million) under Paragraph 4(b) of the Decree and any additional amount of this Judgment on Consent. If, as a result of a Compaction Contribution Action, the Compaction Defendants receive or recover through judgment or settlement any amount from the Carter Day Parties or Carter Day Carriers, twenty-five percent (25%) of that amount shall be immediately paid by the Compaction Defendants into an escrow fund (Escrow Fund), in accordance with an escrow agreement (Escrow Agreement), such Escrow Fund to be held for the benefit of the Occidental Petroleum Corporation Settling Defendants (as listed in Appendix A) or any of them, to indemnify, hold harmless and defend them against any third-party claim, crossclaim or other claim for relief (Additional Party Claim) arising out of the Compaction Contribution Action, whether prosecuted in the same or a subsequent action. In any settlement of the Compaction Contribution Action, the Compaction Defendants hereby agree to obtain a full release from the Carter Day Parties and Carter Day Carriers in favor of the Occidental Petroleum Corporation Settling Defendants with regard to all claims included or that could have been included in the Compaction Contribution Action and any Additional Party Claim arising thereunder. This Court shall retain jurisdiction to enforce the escrow and other requirements contained in

this paragraph and the Escrow Agreement. The escrow requirements of this paragraph shall apply only to funds recovered from the Carter Day Parties or the Carter Day Carriers.

6. This Court will retain jurisdiction over the Compaction Contribution Action (which has been defined to include all related proceedings including any declaratory judgment action filed against the Carter Day Carriers and any Additional Party Claim) in accordance with Paragraph 23 of the Decree. The Compaction Defendants shall file any declaratory judgment against the Carter Day Carriers in the Actions within six (6) months of the issuance of any final judgment by default against the Carter Day Parties, and may request additional time with the consent of the Occidental Petroleum Corporation Settling Defendants which shall not be unreasonably withheld. In such declaratory judgment action, for the purpose of determining any Liability Set-off described in Paragraph 7 of this Consent Judgment, the Compaction Defendants shall seek a declaration of relative rights as between the Carter Day Parties and the Occidental Petroleum Corporation Settling Defendants with regard to contractual rights, if any, that may be relevant to the Compaction Contribution Action, and the Compaction Defendants agree not to oppose any request to intervene by the Occidental Petroleum Corporation Defendants in the declaratory judgment action. The Compaction Defendants agree to serve counsel for the Plaintiffs and Occidental Petroleum Corporation Settling Defendants with all filings in the Compaction Contribution Action in this or any Court.

7. During the Compaction Contribution Action and any related proceedings, including the declaratory judgment action and Additional Party Claim, if this or any other Court finds that any of the Occidental Petroleum Corporation Settling Defendants are liable to any of the Carter Day Parties or Carter Day Carriers in such proceedings, then any judgment in favor of any of the Compaction Defendants and against any of the Carter Day Parties and Carter Day Carriers shall be reduced by the amount of that liability (the Liability Set-off), and the Court shall dismiss with prejudice the claims of any of the Carter Day Parties and Carter Day Carriers against all of the Occidental Petroleum Corporation Settling Defendants without entering any judgment with respect to those claims.
8. The Compaction Defendants, the Settling Connecticut Municipalities (as listed in Appendix B), Connecticut Resources Recovery Authority and the Occidental Petroleum Corporation Settling Defendants have agreed that, in the event that the Settling Connecticut Municipalities, Connecticut Resources Recovery Authority and the Occidental Petroleum Corporation Settling Defendants (collectively, the Connecticut Parties, or individually, a Connecticut Party) or any of them are named as defendants or third-party defendants by the Carter Day Parties or the Carter Day Carriers in the Compaction Contribution Action, including a declaratory judgment action or an Additional Party Claim, contractual indemnification obligations and guarantees, if any, running from the Compaction Defendants to the named Connecticut Party will remain in full force and effect, and not be diminished in any way by this Decree or the related Bar Orders entered by this Court; further, in the

event (and only in the event) that a Connecticut Party asserts such contractual rights against the Compaction Defendants, any contractual indemnification obligation and guarantee, if any, running from it to the Compaction Defendants will then also be preserved. Consistent herewith, Paragraph 26 of the Decree provides:

26. Settling Defendants' and Settling Municipal Group Parties' Reservations. Settling Defendants and Settling Municipal Group Parties agree not to assert any claim for relief (including for contribution) that they may have for Matters Addressed, as set out in Paragraph 28, against any other person who has entered into a settlement in these Actions with the State Plaintiffs or the United States by the time this Decree is entered or in connection with entry of this Decree. This waiver shall not apply with respect to: (a) any defense or claim for relief a Settling Defendant subject to a reservation in Section VIII (RESERVATIONS OF RIGHTS BY PLAINTIFFS) may have against another Settling Defendant subject to the same reservation, but only in the event the Plaintiffs assert such a claim against any Settling Defendant pursuant to that same reservation; or (b) any defense or claim for contribution a Settling Defendant or Settling Municipal Group Party may have against any other person, including against another Settling Defendant or Settling Municipal Group Party, in the event any person asserts a claim in connection to the Site against such Settling Defendant or Settling Municipal Group Party and such claim is not: (i) Subject to a Reservation of Rights as set forth in Paragraph 21; (ii) a Matter Addressed as defined in Paragraph 28; or (iii) otherwise barred by this Decree, any prior consent decree in the Actions or any Order entered by this Court in the Actions.

In the event (and only in the event) that the Settling Connecticut Municipalities (as listed in Appendix B), Connecticut Resources Recovery Authority and the Occidental Petroleum Corporation Settling Defendants (collectively, Connecticut Parties, or individually, a Connecticut Party) or any of them are named as defendants or third-party defendants by the Carter Day Parties or Carter Day Carriers in the Compaction Contribution Action, Declaratory Judgment Action or Additional Party Claim as defined in Paragraphs 5 and 6 of Appendix D, the waiver in this Paragraph 26 does not apply to contractual indemnification obligations and guarantees, if any, running from the Compaction Defendants to the named Connecticut Party. In the event (and only in the event) that a

Connecticut Party asserts such contractual rights against the Compaction Defendants, any contractual indemnification obligations and guarantees, if any, running from it to the Compaction Defendants will then also be preserved.

9. In the Decree, the Plaintiffs agreed to accept:

Payment of Past Response Costs \$69 million, of which \$62.6 million will be paid by Settling Defendants and Third-Party Municipal Defendants Group Parties and \$6.4 million by the Federal PRPs (which payment by the Federal PRPs, including Interest, will also resolve their liability for Future Response Costs and NRD);

Payment for NRD \$3,218,700; and

Purchase of Annuity for Future Response Costs, including O&M Purchase of an Annuity paying \$900,000 annually for thirty (30) years (for a total of \$27 million)

for a total of \$99,218,700 in partial resolution of their claims in connection with the Site.

10. In prior consent decrees, the Plaintiffs received a total of \$16.7 million in settlements, including settlements with the Filiberto Defendants (\$13.1 million), and Non-Party De Minimis Settlers (\$3.2 million), other state settlements (\$140,000), and a state NRD settlement (\$302,000). Accordingly, the total already received in prior decrees and to be received under this Decree by the Plaintiffs is \$115.9 million.

11. In agreeing to accept those amounts, the Plaintiffs assert that their total Site claims (with pre-judgment interest), including, but not limited to, claims for past environmental response or clean-up costs (\$126.2 million), natural resource damages (\$3.4 million), and future estimated clean-up costs (between \$30 and \$35 million) amount to at least \$159.6 million.

12. The Plaintiffs assert that the difference between the value of the instant and past settlements and their total Site claims, which represents the amount of compromised costs by the Plaintiffs, exceeds \$43.7 million, of which approximately \$40.7 million (including interest) is the amount of past costs compromised in the settlements. Of the \$40.7 million in compromised past costs, approximately \$6 million are State Plaintiff's costs, and approximately \$34.7 million are federal compromised past costs.
13. The State Plaintiffs resolved their direct claims for relief against CDI (as set forth in the November 18, 1991 Order), in whole or in part, in the Order dated November 18, 1991, *In Re Combustion Associates, Inc.*, Case No. 80-B-11757, S.D.N.Y.
14. In recognition of the fact that this compromise is with other potentially responsible parties in addition to the Compaction Defendants, the Compaction Defendants have agreed to accept a judgment on consent against them for a portion of the compromised costs in the amount of \$26 million, and the Court finds that this is a reasonable and supportable amount. This consent judgment amount of \$26 million is in addition to the \$11 million initially paid by the Compaction Defendants under Paragraph 4(b) of the Decree.

THEREFORE, IT IS HEREBY ORDERED THAT:

Apart from any amount owed by the Compaction Defendants in Paragraph 4 of the Decree, judgment is hereby entered against the Compaction Defendants and in favor of the Plaintiffs in the amount of \$26 million, and it is

FURTHER ORDERED THAT:

The Compaction Defendants as set forth in Appendix A to the Decree shall not be liable to the Plaintiffs for any amount except amounts set forth in Section V (PAYMENT OF RESPONSE COSTS AND NATURAL RESOURCE DAMAGES AND PURCHASE OF ANNUITY) of the Decree, including the \$11 million specified in paragraph 4(b), and any additional amount that may be due pursuant to Section VI (FAILURE TO COMPLY WITH CONSENT DECREE) and Section VIII (RESERVATIONS OF RIGHTS BY PLAINTIFFS), unless said amounts are recovered through the Compaction Contribution Action, either through litigation or settlement, and it is

FURTHER ORDERED THAT:

Any additional sums recovered by the Compaction Defendants, beyond those amounts due and payable under Paragraph 4 of the Decree, shall be paid to the Plaintiffs within thirty (30) days of recovery of such sums, but after payments in the following order: first, payment of 25 percent of amounts recovered into an Escrow Fund in accordance with the Escrow provisions of paragraph 5 of this Appendix D; second, payment of reasonable attorneys fees and other reasonable costs of litigation; third, reimbursement to the Federal Insurance Company up to the amount they have contributed to the Compaction Defendants' \$11 million payment to the Plaintiffs under Paragraph 4(b); and fourth, reimbursement of the parties in the instant or prior settlements in the Actions for reasonable attorneys fees and costs incurred in discovery to the extent that the Court has not previously required such payments by the Carter Day Parties. The Plaintiffs will not object to any reasonable agreement concerning payment of attorneys fees or costs by or on behalf of the Compaction Defendants. Any additional payments to the Plaintiffs of sums recovered by the Compaction Defendants shall be in accordance with the payment procedures set forth in Section V of the Decree, and subject to the same sanctions provided under Section VI of the Decree for non-

compliance with its payment provisions. Such payments to the escrow fund and the Plaintiffs shall be accompanied by an accounting specifying the sums paid or to be paid for attorneys fees and costs, and to the Federal Insurance Company. This Court will retain jurisdiction in the event of any dispute concerning such payments or accounting, and it is

FURTHER ORDERED THAT:

The provisions of Paragraph 23(e) and (f) of the Decree are hereby incorporated by reference; and it is

FURTHER ORDERED THAT:

In order to (1) administer this Decree consistent with the expectations of parties and to protect them; (2) ensure the efficient litigation of the Compaction Contribution Action; and (3) address any discovery directed to the United States during the course of the Compaction Contribution Action, pursuant to 28 U.S.C. § 1367(a), this Court shall retain jurisdiction over the parties to this Decree, the Compaction Contribution Action, and all related proceedings; and it is

FURTHER ORDERED THAT:

If, as a result of the Compaction Contribution Action, the Compaction Defendants receive or recover through judgment or settlement any amount from the Carter Day Parties or Carter Day Carriers, twenty-five percent (25%) of that amount shall be immediately paid by the Compaction Defendants into the Escrow Fund, in accordance with the Escrow Agreement, such Escrow Fund to be held for the benefit of the Occidental Petroleum Corporation Settling Defendants or any of them, to indemnify, hold harmless and defend them against any Additional Party Claim arising out of the Compaction Contribution Action, whether prosecuted in the same or a subsequent action. In any settlement of the Compaction Contribution Action, the Compaction Defendants shall obtain a full

release from the Carter Day Parties and Carter Day Carriers in favor of the Occidental Petroleum Corporation Settling Defendants with regard to all claims included or that could have been included in the Compaction Contribution Action, including the declaratory judgment action and any Additional Party Claim. The Escrow Fund shall be maintained for the period of time to apply to Additional Party Claims filed within the statute of limitations contained in N.J.S.A. 2A:14-1 (2008) or such shorter time as may be agreed to by the Compaction Defendants, Occidental Petroleum Corporation Settling Defendants, United States and the State. This Court shall retain jurisdiction to enforce the escrow and other requirements contained in this paragraph and the Escrow Agreement; and it is

FURTHER ORDERED THAT:

This Court will retain jurisdiction over the Compaction Contribution Action (which has been defined to include all related proceedings including any declaratory judgment action filed against the Carter Day Carriers and any Additional Party Claim) in accordance with Paragraph 23 of the Decree.

The Compaction Defendants shall file any declaratory judgment against the Carter Day Carriers in the Actions within six (6) months of any issuance of any final judgment by default against the Carter Day Parties, and may request additional time with the consent of the Occidental Petroleum Corporation Settling Defendants which shall not be unreasonably withheld. In such declaratory judgment action, for the purpose of determining any Liability Set-off described in Paragraph 7 of this Consent Judgment, the Compaction Defendants shall seek a declaration of relative rights as between the Carter Day Parties and the Occidental Petroleum Corporation Settling Defendants with regard to contractual rights, if any, that may be relevant to the Compaction Contribution Action, and the Compaction Defendants agree not to oppose any request to intervene by the Occidental

Petroleum Corporation Settling Defendants in the declaratory judgment action. The Compaction Defendants shall serve counsel to the Occidental Petroleum Corporation Settling Defendants with all filings in the Compaction Contribution Action in this or any Court; and it is

FURTHER ORDERED THAT:

During the Compaction Contribution Action and any related proceedings, including the declaratory judgment action and Additional Party Claim, if this or any other Court finds that any of the Occidental Petroleum Corporation Settling Defendants are liable to any of the Carter Day Parties or Carter Day Carriers in such proceedings, then any judgment in favor of any of the Compaction Defendants and against any of the Carter Day Parties and Carter Day Carriers shall be reduced by the amount of that liability, and the Court shall dismiss with prejudice the claims of any of the Carter Day Parties and Carter Day Carriers against all of the Occidental Petroleum Corporation Settling Defendants without entering any judgment with respect to those claims; and it is

FURTHER ORDERED THAT:

The instant Judgment, which accompanies the instant Decree as Appendix D, will be deemed entered at such time as the instant Decree is entered by this Court, without regard to whether the instant Judgment is physically signed by this Court.

SO ORDERED THIS ____ DAY OF _____, 2009.

WILLIAM H. WALLS
United States District Judge